

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

**CECILIO GONZALEZ,**  
**Petitioner**

**V.**

**NATHANIEL QUARTERMAN<sup>1</sup>**  
**Respondent**

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**CIVIL ACTION NO. C-07-264**

**MEMORANDUM AND RECOMMENDATION**

Petitioner, an inmate at TDCJ-CID's Garza West Unit in Beeville, Texas, Texas, filed this *pro se* petition pursuant to 28 U.S.C. § 2254, challenging the failure to grant him street time credit toward the service of his sentence (D.E. 1). Pending is petitioner's application for leave to proceed *in forma pauperis* (D.E. 2).

Petitioner's *in forma pauperis* data sheet reflects that as of June 6, 2007, petitioner had \$153.20 in his inmate trust account. The filing fee for filing a habeas corpus petition is \$5.00. Petitioner can afford to pay the fee.

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<sup>1</sup>Nathaniel Quarterman, Director of the Criminal Institutions Division for the Texas Department of Criminal Justice, is the appropriate respondent in this case. Rule 2(a), Rules Governing Section 2254 Cases. The Clerk shall substitute Mr. Quarterman as the respondent.

**RECOMMENDATION**

It is respectfully recommended that petitioner's application for leave to proceed *in forma pauperis* (D.E. 2) be denied without prejudice and that petitioner be ordered to pay the filing fee within twenty days.

Respectfully submitted this 18<sup>th</sup> day of June, 2007.

  
B. JANICE ELLINGTON  
UNITED STATES MAGISTRATE JUDGE

NOTICE TO PARTIES

The Clerk will file this Memorandum and Recommendation and transmit a copy to each party or counsel. Within **TEN (10) DAYS** after being served with a copy of the Memorandum and Recommendation, a party may file with the Clerk and serve on the United States Magistrate Judge and all parties, written objections, pursuant to Fed. R. Civ. P. 72(b), 28 U.S.C. § 636(b)(1)(C) and Article IV, General Order No. 80-5, United States District Court for the Southern District of Texas.

A party's failure to file written objections to the proposed findings, conclusions, and recommendation in a magistrate judge's report and recommendation within TEN (10) DAYS after being served with a copy shall bar that party, except upon grounds of *plain error*, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. Douglass v. United Servs. Auto Ass'n, 79 F.3d 1415 (5<sup>th</sup> Cir. 1996) (en banc).